

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANDRES ORTIZ

vs.

LIBERTY INSURANCE CORPORATION

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Civil Action No. 4:19-CV-02731
(JURY)

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Liberty Insurance Corporation (“Defendant”) and timely files this Notice of Removal pursuant to 28 U.S.C. § 1441(a), 28 U.S.C. § 1332(a), and 28 U.S.C. § 1446(b), removing this action from the 113th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, and in support thereof show as follows:

A. Introduction

1. Plaintiff commenced this lawsuit against Defendant in the Judicial District Court of Harris County, Texas by filing his Original Petition on or about June 6, 2019, 2019. A true and correct copy of the Original Petition is attached hereto as Exhibit “A.” Defendant Safeco received service of process on June 24, 2019. *See* Exhibit A. Defendant filed their Answer to Plaintiff’s Original Petition, Special Exceptions and Jury demand on July 15, 2019 attached hereto as Exhibit B.

2. Defendant is filing this Notice of Removal within 30 days of its first receipt of Plaintiff’s Original Petition as required by 28 U.S.C. § 1446(b).

3. Plaintiff seeks to recover damages in this lawsuit based on allegations of breach of contract, violations of the Texas Insurance Code, bad faith, and misrepresentation resulting from the alleged conduct of Defendant. Plaintiff's claims arise under a homeowner's policy of insurance issued by Defendant on Plaintiff's dwelling located at 7303 Cornwall Bridge Ln., Houston, Texas, 77041, which is alleged to have been damaged during a wind and hail storm on or about August 22-29, 2017.

B. Jurisdiction & Removal

4. This Court has jurisdiction in the case pursuant to 28 U.S.C. §1332, in that there is complete diversity of citizenship between the parties. Accordingly, statutory authority for the removal of this matter is conferred by 28 U.S.C. §§ 1441 and 1446.

5. Plaintiff is an individual residing in Harris County, Texas.

6. Liberty Insurance Corporation is a corporation organized under the laws of the State of Massachusetts, with its principal place of business in Boston.

7. Plaintiff's Petition states he is seeking monetary relief over \$100,000.00, but not more than \$200,000.00. Therefore, the amount in controversy exceeds \$75,000.00.

8. Venue is proper in this district and division under 28 U.S.C. § 1441(a) because the state court where the action has been pending is located in this district and division.

9. Contemporaneous with the filing of this Notice of Removal, Defendant is filing a Notice of Filing Notice of Removal with the Clerk of Court for the 125th Judicial District Court of Harris County, Texas pursuant to 28 U.S.C. § 1446(d).

10. Attached hereto are all documents required by LR 81, USDC/SDTX Local Rules and 28 U.S.C. § 1446(a).

11. Defendant demanded a jury in the state court action. Defendant also requests a trial by jury pursuant to Rule 81(c)(3)(A), Federal Rules of Civil Procedure and LR 38.1, USDC/SDTX Local Rules.

12. All fees required by law in connection with this Notice have been tendered and paid by Defendant.

WHEREFORE, Liberty Insurance Corporation hereby removes the above-captioned matter now pending in the 113th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

SHEEHY, WARE & PAPPAS, P.C.

/s/ J. Mark Kressenberg
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**ATTORNEYS FOR DEFENDANT
LIBERTY INSURANCE CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above foregoing instrument has been forwarded via e-filing in accordance with the Federal Rules of Civil Procedure on this the 24th day of July, 2019, to the following counsel of record:

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/s/ J. Mark Kressenberg
J. Mark Kressenberg

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